

Remarks

Claims 1, 3-5, 8-9, 16, 19, 28, and 46-49 are pending and in condition for allowance. By the proposed amendment above, claims 1, 3-5, 8, 16, 19, 28, and 46-49 have been amended, and claim 9 has been cancelled. Applicant has submitted this response along with a request for continuing examination and an information disclosure statement. Applicant notes the Notice of Draftsperson's Patent Drawing Review and objections to Figures 12a-16c, and has addressed the objections by including formal drawings of Figures 12a-16c with this response.

The rejection of claim 49 under Section 112, first paragraph, is respectfully traversed. The claim limitation "adapted to occupy a posterior cruciate ligament sulcus in situ" is not new matter introduced by amendment. For example, this limitation finds support at page 23, line 25, of the application as filed (paragraph 85 of the published application). Accordingly, Applicant requests that this rejection be withdrawn.

The double patenting and provisional double patenting rejection is recognized. Applicant will submit terminal disclaimers, if appropriate, after an indication of allowable subject matter.

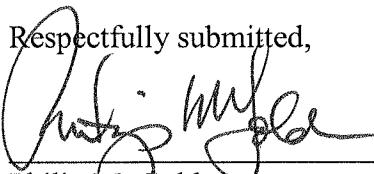
The rejection under Section 102 based on Averill, et al. is respectfully traversed. Averill, et al. describes a total knee prosthesis, as compared to an interpositional implant. In turn, the reference fails entirely to teach or describe any of the various limitations presently claimed, particularly including the fact that it fails to provide a first surface that is itself placed in apposition to supporting bone, in the form of the natural tibia, and a second surface that is itself placed in apposition to opposing bone, in the form of the natural femoral condyles. Further, Averill, et al. fails to teach a tibial projection extending distally over a rim of a posterior portion of the tibial plateau.

The Examiner has contented that these distinctions are irrelevant because the natural form of the tibia and femoral condyles are not stated in the claims. Applicant disagrees with this contention because it has defined the structure of the claimed implant by how it interacts with the joint anatomy, and this structure is positively claimed and clearly lacking in the cited art. However, in order to advance this application to allowance, Applicant has re-cast the pending claim set to claim a modified knee joint and has positively recited the supporting knee anatomy in the claims. Accordingly, this amendment should fully address the Examiner's rejection.

The rejection under Section 103 based on Averill, et al. in view of Fell is also respectfully traversed. Averill, et al. is distinguished for the reasons cited above, and for others as well. Further, for example, Fell does not disclose a tibial projection adapted to extend distally over a rim of a tibial plateau. The extension cited by the Examiner is a keel that rests against a tibial plateau, rather than extending distally over its rim. Accordingly, the cited references, neither alone nor in combination, disclose a tibial projection adapted to extend distally over a rim of a tibial plateau.

In view of the above remarks, it is submitted that the claims are in condition for allowance. Reconsideration and withdrawal of all rejections is respectfully requested.

Dated: 29 JAN 2007

Respectfully submitted,

Philip M. Goldman
Registration No. 31,162
Fredrikson & Byron, P.A.
200 South Sixth Street
Suite 4000
Minneapolis, MN 55402-1425
(612) 492-7000
Customer No. 022859